

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 313

Introduced by Senator Galgiani

February 23, 2015

An act to amend Section ~~53091~~ 53094 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 313, as amended, Galgiani. Local government: zoning ordinances: ~~compliance~~. school districts.

Existing law authorizes the governing board of a school district, by a $\frac{2}{3}$ vote of its members, to render a city or county zoning ordinance inapplicable to a proposed use of school district property, except when the proposed use is for nonclassroom facilities.

This bill would additionally condition this authorization upon compliance with a notice requirement regarding a schoolsite on agricultural land, and would require the governing board to notify the city or county, in writing, of the reason the governing board intends to take that vote at least 90 days prior to the vote. The bill would also require that vote to be based upon written findings on the record that contain substantial evidence that a zoning ordinance fails to accommodate the need to renovate and expand an existing public school or locate a new public school within the city or county.

~~Existing law requires each local agency to comply with all applicable building and zoning ordinances of the county or city in which the territory of the local agency is situated. Existing law provides that each local agency and each school district whose school buildings are subject to inspection by a county or city are subject to the payment of any~~

applicable fees, but that those fees may not exceed the amount charged to nongovernmental agencies for the same services or permits.

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53094 of the Government Code is
2 amended to read:

3 53094. (a) Notwithstanding any other provision of this article,
4 this article does not require a school district to comply with the
5 zoning ordinances of a county or city unless the zoning ordinance
6 makes provision for the location of public schools and unless the
7 city or county has adopted a general plan.

8 (b) Notwithstanding subdivision (a), the governing board of a
9 school district, that has complied with the requirements of Section
10 ~~65352.2 of this code and~~ 65352.2, Section 21151.2 of the Public
11 Resources Code, and Section 17215.5 of the Education Code, by
12 a vote of two-thirds of its members *taken at least 90 days after the*
13 *governing board has notified the city or county, in writing, of the*
14 *reason the governing board intends to take action pursuant to this*
15 *subdivision, and based upon written findings on the record that*
16 *contain substantial evidence that a zoning ordinance fails to*
17 *accommodate the need to renovate and expand an existing public*
18 *school or locate a new public school within the city or county,* may
19 render a city or county *general plan or* zoning ordinance
20 inapplicable to a proposed use of property by the school district.
21 The governing board of the school district may not take this action
22 when the proposed use of the property by the school district is for
23 nonclassroom facilities, including, but not limited to, warehouses,
24 administrative buildings, and automotive storage and repair
25 buildings.

26 (c) The governing board of the school district shall, within 10
27 days *of its vote*, notify the city or county concerned of any action
28 taken pursuant to subdivision (b). If the governing board has taken
29 such an action, the city or county may commence an action in the
30 superior court of the county whose zoning ordinance is involved
31 or in which is situated the city whose zoning ordinance is involved,

1 seeking a review of the action of the governing board of the school
2 district to determine whether it was arbitrary and capricious *based*
3 *upon substantial evidence in the public record pursuant to Section*
4 *1094.5 of the Code of Civil Procedure*. The city or county shall
5 cause a copy of the complaint to be served on the board. If the
6 court determines that the action was arbitrary and capricious, it
7 shall declare it to be of no force and effect, and the zoning
8 ordinance in question shall be applicable to the use of the property
9 by the school district.

10 ~~SECTION 1. Section 53091 of the Government Code is~~
11 ~~amended to read:~~

12 ~~53091. (a) Each local agency shall comply with all applicable~~
13 ~~building ordinances and zoning ordinances of the county or city~~
14 ~~in which the territory of the local agency is situated.~~

15 ~~(b) On projects for which state school building aid is requested~~
16 ~~by a local agency for construction of school facilities, the county~~
17 ~~or city planning commission in which the local agency is located~~
18 ~~shall consider in its review for approval information relating to~~
19 ~~attendance area enrollment, adequacy of the site upon which the~~
20 ~~construction is proposed, safety features of the site and proposed~~
21 ~~construction, and present and future land utilization, and report~~
22 ~~thereon to the State Allocation Board. If the local agency is situated~~
23 ~~in more than one city or county or partly in a city and partly in a~~
24 ~~county, the local agency shall comply with the ordinances of each~~
25 ~~county or city with respect to the territory of the local agency that~~
26 ~~is situated in the particular county or city, and the ordinances of a~~
27 ~~county or city shall not be applied to any portion of the territory~~
28 ~~of the local agency that is situated outside the boundaries of the~~
29 ~~county or city. Notwithstanding the preceding provisions of this~~
30 ~~section, this section does not require a school district or the state~~
31 ~~when acting under the State Contract Act (Article 1 (commencing~~
32 ~~with Section 10100) of Chapter 1 of Part 2 of Division 2 of the~~
33 ~~Public Contract Code) to comply with the building ordinances of~~
34 ~~a county or city.~~

35 ~~(c) Each local agency required to comply with building~~
36 ~~ordinances and zoning ordinances pursuant to this section and each~~
37 ~~school district whose school buildings are inspected by a county~~
38 ~~or city pursuant to Section 53092 shall be subject to the applicable~~
39 ~~ordinances of a county or city requiring the payment of fees, but~~
40 ~~the amount of those fees charged to a local agency or school district~~

1 shall not exceed the amount charged under the ordinance to a
2 nongovernmental agency for the same services or permits.

3 ~~(d) Building ordinances of a county or city shall not apply to~~
4 ~~the location or construction of facilities for the production,~~
5 ~~generation, storage, treatment, or transmission of water,~~
6 ~~wastewater, or electrical energy by a local agency.~~

7 ~~(e) Zoning ordinances of a county or city shall not apply to the~~
8 ~~location or construction of facilities for the production, generation,~~
9 ~~storage, treatment, or transmission of water, or for the production~~
10 ~~or generation of electrical energy, facilities that are subject to~~
11 ~~Section 12808.5 of the Public Utilities Code, or electrical~~
12 ~~substations in an electrical transmission system that receives~~
13 ~~electricity at less than 100,000 volts. Zoning ordinances of a county~~
14 ~~or city shall apply to the location or construction of facilities for~~
15 ~~the storage or transmission of electrical energy by a local agency,~~
16 ~~if the zoning ordinances make provision for those facilities.~~